

1. SEPARATE DEFINITION FOR GAURDIAN

§36F-2 (14a) Guardian. – A person appointed by a court to manage the estate of a living individual. The term includes a general guardian, a guardian of the estate, an interim guardian, and a standby guardian appointed under Chapter 35A of the General Statutes; a guardian appointed for a Veterans Administration ward under Chapter 34 of the General Statutes.

2. SEPARATE DEFINITION FOR RECEIVER. [Note: Separate definition for Receiver.

Makes clear only a receiver appointed under either Chapter 28B or 28C, not a receiver in a creditor or insolvency proceeding.]

36F-2 (___) Receiver – A person appointed as a receiver under Chapter 28B for an absentee in military service or a permanent receiver under Chapter 28C for an absentee.

[NOTE: Although titled “Estates of Missing Persons,” Chapter 28C refers to a missing person as an “absentee,” not as a “missing person.”

3. CHANGE LEAD IN TO G.S. §36F-14(a) [Note: consistent with the terminology of Chapter 35A – relief sought by motion in the cause (§35A-1207), not “after an opportunity for a hearing – procedural language from Uniform Probate Code (not NC) and Bankruptcy Rules.]**§ 36F-14. Disclosure of digital assets to guardian of ward.**

(a) ~~After an opportunity for a hearing under~~ Upon motion of a guardian, the court may grant a guardian access to the digital assets of a ward....

4. **SEPARATE SECTION FOR RECEIVER FOR MILITARY ABSENTEES AND MISSING PERSONS – TRACKS GUARDIANSHIP PROVISION OF § 36F-14**
[[Note: terms “after hearing” and “superior court” track Chapters 28B and 28C.]

"§ 36F-____. Disclosure of digital assets to Court Appointed Receiver for Military

Absentee or Missing Person:

(a) After hearing, the superior court may grant a receiver appointed for a military absentee under Chapter 28B or a missing person under Chapter 28C access to the digital assets of a military absentee or missing person.

(b) Unless otherwise ordered by the superior court or directed by the user, a custodian shall disclose to a receiver the catalogue of electronic communications sent or received by a military absentee or missing person and any digital assets, other than the contents of electronic communications, in which the military absentee or missing person has a right or interest if the receiver gives the custodian all of the following:

- (1) A written request for disclosure in physical or electronic form.
- (2) A certified copy of the court order that gives the receiver authority over the digital assets of the military absentee or missing person.
- (3) If requested by the custodian, any of the following:

- a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the military absentee or missing person.
 - b. Evidence linking the account to the military absentee or missing person.
- (c) A receiver with general authority to manage the assets of a military absentee or missing person may request a custodian of the digital assets of the military absentee or missing person to suspend or terminate an account of the military absentee or missing person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the receiver authority over the military absentee or missing person's property.

CONFORMING AMENDMENTS TO CHAPTERS 28B (absentees in military service) and 28C (missing persons):

28B-6. Powers and duties of receiver.

- (a) Under the direction of a judge, the receiver shall administer the property of the absentee in military service as an equity receivership with the following powers:

....

(8a) With the approval of the judge in each instance, to obtain the digital assets of the absentee in military service, as provided in Chapter 36F of the General Statutes, including catalogues and content, and to request and authorize disclosure of the digital assets.

§ 28C-8. Powers and duties of permanent receiver

The permanent receiver shall under the direction of the judge administer the absentee's property as an equity receivership with the following powers:

....

(8a) With the approval of the judge in each instance, to obtain the digital assets of the absentee, as provided in Chapter 36F of the General Statutes, including catalogues and content, and to request and authorize disclosure of the digital assets.

[NOTE: The conforming amendment to Chapter 28C only gives the court the power to authorize access to digital assets by a permanent receiver, not a temporary receiver. This limitation is due to the fact that the absentee by definition has not authorized a fiduciary with access to digital assets so a hearing after notice to the absentee and other interested persons as provided in 28C-4 is an appropriate safeguard for an absentee user.]